

# **EXHIBIT 1**

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

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THE PEOPLE OF THE STATE OF  
NEW YORK BY ANDREW M. CUOMO,  
ATTORNEY GENERAL OF THE STATE  
OF NEW YORK,

Plaintiff,

-against-

Index No.:

450879/2009

ASCOT PARTNERS, LP,  
ASCOT FUND LIMITED,  
GABRIEL CAPITAL, LLC, and  
GABRIEL ALTERNATIVE ASSETS,

Defendants.

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120 Broadway  
23rd Floor  
New York, New York 10271  
July 1, 2010  
10:11 a.m.

EXAMINATION BEFORE TRIAL of J. EZRA  
MERKIN, a representative of the Defendant in  
the above-entitled action, taken on behalf  
of the Plaintiff, held at the above time and  
place, and taken before Binita Shrestha, a  
reporter and Notary Public within and for  
the State of New York.

1 J. E. MERKIN

2 about options strategies, and think that I  
3 understood what that strategy was, what it  
4 purported to be, and how basically it  
5 worked.

6 I spent a lot of time doing due  
7 diligence on what the strategy was with  
8 Mr. Madoff and about Mr. Madoff's firm with  
9 others on Wall Street. We had any number of  
10 meetings with Mr. Madoff about the options.  
11 Even late in the game when we set up  
12 meetings for UBP and the fourth quarter of  
13 2008, we focused on the options, we focused  
14 on how they worked with the stocks, we  
15 focused on how the strategy was meant to  
16 deliver the kind of return it did. I don't  
17 think options were something that were new  
18 to me, alien to me, or not understood by me.

19 I think Mr. Madoff's role in the  
20 industry, I think Mr. Madoff's stature and  
21 his firm's stature were all things we took  
22 into account in considering the  
23 appropriateness of the strategy.

24 Q. Have you now finished your answer?

25 A. Yes.